

Use this publication in preparing your 2005 tax return. There are no substantive differences between the 2004 and 2005 versions of this publication

This publication contains questions and answers about Wisconsin income taxes for persons who are in the armed forces. In reading this publication, you will note that Wisconsin residents in the armed forces are liable for Wisconsin income taxes.

WISCONSIN
TAXATION OF
MILITARY PERSONNEL

Questions and answers about
Wisconsin income taxes for
members of the armed forces.

1. Q. Who must file a Wisconsin return?
- A. A Wisconsin income tax return must be filed by a legal resident of Wisconsin if:

Filing status is:	And the person's gross income (or combined gross income of husband and wife) was at least
Single	
Under 65	\$9,000
65 or over	\$9,120
Married-Filing Joint Return	\$18,000
Married-Filing Separate Return	\$9,000 (applies to each spouse individually)
Head of Household	
Under 65	\$11,250
65 or over	\$11,500

A part-year resident of Wisconsin and a legal resident of another state must file a Wisconsin income tax return if income subject to Wisconsin income tax was \$2,000 or more, regardless of age or marital status.

Note: The above filing requirements apply to taxable years beginning in 2005.

2. Q. Who is a legal resident of Wisconsin for income tax purposes?
- A. A legal resident of Wisconsin is a person who maintains his or her domicile in Wisconsin, whether physically present in Wisconsin or residing outside the state.
3. Q. What is a person's "domicile"?
- A. "Domicile" is a person's true, fixed, and permanent home where a person intends to remain permanently and indefinitely and to which, whenever absent, a person has the intention of returning. It is often referred to as "permanent residence" or "legal residence." A person may be physically present or residing in one locality but maintain a domicile in another. A person has only one domicile at any point in time.
4. Q. Can a Wisconsin resident in the armed forces change his or her legal residence (domicile) to another state? If so, how?
- A. Yes, a person can abandon his or her Wisconsin legal residence (domicile) and establish a legal residence in another state. A Wisconsin legal resident (domiciliary) who enters the armed forces remains a Wisconsin legal resident unless positive action is taken to abandon Wisconsin residency and establish legal residence in another state. Changing legal residence requires: (1) physical presence in the new locality, (2) an intent to remain there permanently or indefinitely, and (3) an intent to abandon the old legal residence. Actions which express intent may include, but are not limited to: (1) changing legal documents, such as a will or insurance policies, to reflect the new legal residence, (2) changing home of record upon reenlistment, (3) registering to vote in the new locality, (4) paying state taxes in the new locality, (5) applying for a driver's license in the new state of residence and relinquishing the Wisconsin driver's license, (6) registering a car in the new state of residence and relinquishing Wisconsin car registration, (7) purchasing a home in the new state of residence and selling

a Wisconsin home, and (8) consistently using the new permanent address on all appropriate records and correspondence. Moving from one duty station to another does not by itself constitute a change of legal residence.

Persons claiming change of legal residence (domicile) from Wisconsin to another state should file a "Legal Residence (Domicile) Questionnaire" form with the Wisconsin Department of Revenue. See Question and Answer 12 for information on where to obtain this form.

5. Q. Are Wisconsin residents serving in the armed forces liable for Wisconsin income taxes? What if the person is stationed outside Wisconsin or overseas?
- A. Yes. Wisconsin residents in the armed forces are liable for Wisconsin income taxes on their entire annual Wisconsin net taxable income, regardless of the income source. If a Wisconsin resident is serving in the armed forces outside Wisconsin, including overseas, the person is liable for Wisconsin income taxes on the entire annual Wisconsin net taxable income, wherever earned, just as if the person was physically present in Wisconsin throughout the year. (See Question and Answer 9 for information on exempt military pay.)
- A member of the armed forces on active duty who receives military pay from the federal government for services performed while stationed outside the United States may be eligible for a credit of up to \$200 against Wisconsin income tax.
6. Q. Can a Wisconsin resident serving in the armed forces be taxed by any other state on military pay?
- A. No. Under the federal Servicemembers Civil Relief Act, a Wisconsin resident in the armed forces cannot be taxed on military pay by any other state. However, a Wisconsin resident can be taxed as a nonresident by another state on income, other than military pay, earned from employment or property in that state. In

such a case, a tax credit would usually be allowed by Wisconsin.

7. Q. Is a legal resident of another state, who is stationed in Wisconsin on military orders, liable for Wisconsin income taxes on military pay?
- A. No. However, this person is liable for Wisconsin income taxes on any income, other than military pay, from employment in Wisconsin, a business conducted in Wisconsin, property located in Wisconsin, a Wisconsin state lottery or a multi-jurisdictional lottery ticket purchased in Wisconsin, Wisconsin pari-mutuel wager winnings and purses, or winnings from a Native American casino or bingo hall located in Wisconsin. The person must file a Wisconsin tax return if such income is \$2,000 or more.
8. Q. If I am a Wisconsin resident in the armed forces, is my spouse also liable for Wisconsin income taxes? Or if I am a legal resident of another state stationed in Wisconsin on military orders, is my spouse liable for Wisconsin income taxes?
- A. If your spouse is a legal resident of Wisconsin, he or she is liable for Wisconsin income taxes as any other resident, regardless of where he or she resides. If your spouse is a legal resident of another state, he or she is only liable for Wisconsin income taxes on income from personal services (other than military pay) performed in Wisconsin, a business conducted in Wisconsin, property located in Wisconsin, a Wisconsin state lottery or a multijurisdictional lottery ticket purchased in Wisconsin, Wisconsin pari-mutuel wager winnings and purses, or winnings from a Native American casino or bingo hall located in Wisconsin.
9. Q. Does Wisconsin exempt any portion of military pay?
- A. Military pay which is exempt for federal tax purposes is also exempt for Wisconsin. For example, military pay which qualifies for the federal combat pay exclusion is also exempt for Wisconsin tax purposes.

For taxable years beginning in 2004 and thereafter, military pay received by certain members of the Reserves and National Guard may also be exempt for Wisconsin tax purposes. To qualify for the exemption, the military pay must have been received from the federal government after being called into active federal service or into special state service authorized by the federal Department of Defense. The pay must have been for a period of time during which the Reserve or National Guard member was on active duty. This exemption does not apply to military pay that members of the Reserves or National Guard receive during their weekend and two-week annual training, or to a person serving on active duty or full-time duty in the active guard reserve (AGR) program.

10. Q. What is the deadline for filing a return?
- A. Wisconsin income tax returns are due on April 15 of the following year. However, if April 15 falls on a Saturday, Sunday, or holiday, then the due date is not until the next regular business day. Any extension of time allowed under federal law for filing your federal income tax return also applies for filing your Wisconsin income tax return. For example, federal law allows persons on military duty outside the United States and Puerto Rico an automatic two-month extension of time for filing. This extension also applies for Wisconsin.
- Note:** You will not be charged interest during an extension period if (1) you served in support of Operation Iraqi Freedom in the United States, or (2) you qualify for a federal extension because of service in a combat zone due to your participation in Operation Iraqi Freedom. If you are covered by this provision, write "Operation Iraqi Freedom" at the top of the first page of your Wisconsin return.
11. Q. Which Wisconsin tax form do I use?
- A. You can use either Form WI-Z, Form 1A, or Form 1. However, if you were a part-year resident or a nonresident of Wisconsin, you must file Wisconsin Form 1NPR. If you were married

and a full-year Wisconsin resident, but your spouse was a part-year resident or nonresident, the form you should file depends on the filing status you elect. If you elect to file a joint return for Wisconsin, you must file on Form 1NPR. If you elect to file separate returns, the full-year resident must file on Form 1 and his/her spouse must file on Form 1NPR.

If Form 1 or Form 1NPR is used, a copy of your federal income tax return, plus all schedules, attachments, or statements accompanying the federal return, must be filed with the Wisconsin return.

If Form 1A is used, certain conditions must be met. A person's total income must consist only of wages, unemployment compensation, dividends, interest income, capital gain distributions from a mutual fund or real estate investment trust, IRA distributions, pension or annuity income, and taxable social security. In addition, a Form 1A may not be filed if the person claims any adjustments to income (except deductions for an IRA, educator expenses, and student loan interest), claims the itemized deduction credit, claims a farmland preservation credit, or claims a credit for taxes paid to other states.

Form WI-Z may be used only by persons who file their federal income tax return on federal Form 1040EZ. In addition, a Form WI-Z may not be filed if the person receives interest income from U.S. bonds or state or municipal bonds, receives unemployment compensation, or claims any Wisconsin tax credits other than the Wisconsin renter's and homeowner's school property tax credits, the working families tax credit, or the married couple credit.

12. Q. Where may tax forms be obtained?
- A. You may obtain tax forms by writing to Wisconsin Department of Revenue, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949 or by calling (608) 266-1961. You may download forms from the department's Internet web site at www.dor.state.wi.us. To receive forms by FAX, use your fax telephone to call

the department's Fax-A-Form Retrieval System at (608) 261-6229.

13. Q. For what back years must Wisconsin income tax returns be filed?
- A. In cases where a person has not filed Wisconsin income tax returns, the Department of Revenue may request returns for each year the person has a filing requirement.
14. Q. What if a person has not filed for the years he or she has been in the armed forces?
- A. The person should contact the Department of Revenue and make arrangements for assistance in preparing income tax returns.
15. Q. If a person cannot pay the entire balance due with one's tax returns when filed, can arrangements be made for paying in installments over a reasonable period of time?
- A. Requests for installment payment plans may be approved. You may contact the department for further information.

For further information concerning Wisconsin law and filing requirements, please call the department at (608) 266-2772 or write:

Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

Further information is also available from the department's Internet web site at: www.dor.state.wi.us.

You may also e-mail your questions to: income@dor.state.wi.us.

CAUTION

The information in this publication reflects the interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of October 31, 2005. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.